

## SUBCHAPTER 25. SELLERS OF HEALTH CLUB SERVICES

### 13:45A-25.1 "Health club" defined

(a) The term "health club" shall include any establishment which:

1. Devotes at least 40 percent of its facility to the preservation, maintenance, encouragement or basic development of physical fitness or physical well-being through physical exercise; and
2. Where patron use is predominantly at will (that is, usage is permitted whenever the establishment is open or during specified time periods, such as "weekends", "week-days", "mornings", etc.).

(b) The term "health club" shall not include a single focus establishment/facility that is devoted to the development of one particular physical skill, or activity or enjoyment of one specific sport. The following facilities are not subject to the Act Regulating Sellers of Health Club Services, P.L. 1987, c. 238 ("Act"):

1. Basic aerobic and "dance exercise" centers operating on a scheduled lesson or hourly basis;
2. Children's gyms (commercial play-spaces with trampolines and other gymnastic equipment) operating on a scheduled lesson or hourly basis;
3. Martial arts schools (for example, karate institutes);
4. Dancing schools (for example, ballet and jazz);
5. Gymnastic schools operating on a scheduled lesson or hourly basis;
6. Tanning salons ("sun studios");
7. Weight control centers;
8. Metabolic and nutrition centers;
9. Other single sport centers (for example, swim clubs, tennis clubs and racquetball clubs).

(c) Health club facilities located in hotels, motels, condominiums, cooperatives, corporate offices or other business facilities and which charge fees comparable to other for-profit health clubs are subject to the Act unless usage is limited to guests, residents or employees at no charge or at nominal cost, in which event the facilities are not within the scope of the Act.

**13:45A-25.2 Registration; fees**

(c) Applicant(s) shall request information from the Health Club Coordinator, Office of Consumer Protection, Post Office Box 45025, Newark, New Jersey 07101 regarding the initial registration of a facility; thereafter an application shall be forwarded to the applicant, along with a copy of the Act and a copy of all current rules.

(b) Any person who offers for sale or sells health club services shall pay to the Director of the Division of Consumer Affairs a registration fee of \$300.00 every two years for each health club facility operated, \$150.00 if paid during the second half of the biennial period.

(c) Upon verification of the information submitted in the application, payment of the registration fee and posting of a security, if not exempt from that requirement pursuant to N.J.A.C. 13:45A-25.4, a Certificate of Registration and the Notice described in (e) below shall be issued to the facility. The Certificate of Registration and Notice shall be displayed in a prominent place at the main entrance of each health club facility.

(d) Each contract for health club services shall contain, in the upper right-hand corner, the facility's Certificate of Registration number.

(e) The following shall be the text of the Notice to be provided by the Division to each registered facility:

**NOTICE**

This facility is registered as a seller of health club services by the State of New Jersey, Department of Law and Public Safety, Division of Consumer Affairs, 124 Halsey Street, Newark, New Jersey 07102. Such registration does not mean that this facility has been approved or endorsed by that agency. Patrons are advised that under New Jersey law, facilities offering contracts for health club services for longer than a three-month period must post with the Division of Consumer Affairs security against failure to provide such services.

(f) A registrant may note in advertising that it is a registered health club; however, a registrant shall not state or imply that the facility has been approved or endorsed by the Division.

(g) All registrations shall expire every two years on the 10th day of February.

Amended by R.1990 d.104, effective February 5, 1990.

See: 21 N.J.R. 3657(a), 22 N.J.R. 358(b).

Registration fee increased from \$100.00 to \$200.00 every two years.

Amended by R.1992 d.101, effective March 2, 1992.

See: 23 N.J.R. 3637(a), 24 N.J.R. 853(a).

Revised (a), (b), (e) and (g).

**13:45A-25.3 Exemption from registration**

(a) Where a facility claims exemption from registration because less than 40 percent of its square footage is devoted to health club services, the facility shall calculate the 40 percent square footage on the basis of the total indoor square footage of the establishment including the exercise equipment area(s), sauna(s), swimming pool(s), locker facilities and shower areas. The facility shall return a completed application form to the Division of Consumer Affairs along with documentation of the "less than 40 percent" claim, which shall include:

1. A schematic drawing noting the dimensions and use of each area of the facility;

2. A list of the various rooms/spaces with the total square footage of each room/space;

3. A statement of the total square footage of the facility; and

4. Two sample advertisements or brochures if any have been published by the facility within a three month period prior to the date documentation is filed.

(b) If, after the filing of the claim of exemption from registration, a facility makes an internal or external change in space allocation which changes the relationship of the health club services area to the total premises, the facility shall file a revised schematic diagram with the Division. This filing shall be made no later than 90 days after the date when the change in space allocation is completed.

(c) A claim of exemption from registration because less than 40 percent of the facility's square footage is devoted to health club services shall be subject to on-site verification at the discretion of the Director of the Division.

**13:45A-25.4 Exemption from security requirement**

A separate Declaration of Exemption from Security Requirement shall be filed for each facility claiming exemption from the bond/letter of credit/security requirement of N.J.S.A. 56:8-41 because its membership contracts are for a period no longer than three months. When the Declaration of Exemption from Security Requirement is filed, it must be accompanied by a copy of a written contract as proof that the contract duration is for a period of no longer than three months. The Declaration of Exemption from Security Requirement shall be available upon request from the Health Club Coordinator, Office of Consumer Protection, Post Office Box 45025, Newark, NJ 07101.

Amended by R.1992 d.101, effective March 2, 1992.

See: 23 N.J.R. 3637(a), 24 N.J.R. 853(a).

Revised text.

**13:45A-25.5 Documentation of maintenance of security**

Each establishment which has posted a bond as security shall maintain complete and accurate records relating to the bond and premium payments made thereon. Each establishment which has posted a letter of credit or provided other security acceptable to the Director of the Division shall maintain complete and accurate records relating to those items. These records shall be available on the premises of the establishment for review by the Director or his or her designated representative on any operating day.

**13:45A-25.6 Health club contracts**

(a) For the purpose of this section, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

"Affiliated health club" means a health club located within 25 miles of a member's new permanent residence that will provide the same or similar services and facilities to the member as the originating health club.

"Member" means a buyer of a health club services contract from the originating health club.

"Originating health club" means the health club that is party to a contract sought to be cancelled.

"Originating health club's facility" means the facility identified in the contract between a member and the originating health club by name and street address as the health club that the member joined.

(b) A health club services contract subject to cancellation pursuant to N.J.S.A. 56:8-42g shall not be cancelled if, after receipt of a notice of cancellation from a member, which notice shall be sent or delivered to the originating health club's facility, the originating health club reaffirms the contract in writing to the member guarantying that there is an affiliated health club or clubs that will provide to that member the use of the same or similar services and facilities as the originating health club at no additional expense for the remaining term of the contract, giving the name and address of the affiliated club or clubs.

(c) If, during the remaining term of a health club services contract that is subject to cancellation but for (b) above, the services and facilities contracted for become unavailable from the affiliated health club without additional expense and the originating health club receives notice from the member to that effect, the originating health club shall refund to the member, within 20 days of receipt of notice, the pro rata portion of the contract price paid to the originating health club that relates to the portion of the contract term for which the services and facilities are unavailable and the member shall have no further obligation under the contract.

(d) The obligation to make the refund provided for in (c) above, is an obligation of the originating health club under

the health club services contract secured by any bond or other security it maintains under N.J.S.A. 56:8-41.

New Rule, R.2009 d.76, effective March 2, 2009.

See: 40 N.J.R. 5530(a), 41 N.J.R. 1082(a).

Former N.J.A.C. 13:45A-25.6, Violations; sanctions, recodified to N.J.A.C. 13:45A-25.7.

**13:45A-25.7 Violations; sanctions**

Without limiting the prosecution of any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., any violation of the provisions of this subchapter shall be subject to the sanctions contained in the Consumer Fraud Act.

Recodified from N.J.A.C. 13:45A-25.6 by R.2009 d.76, effective March 2, 2009.

See: 40 N.J.R. 5530(a), 41 N.J.R. 1082(a).